

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION

ARMAND PAUL BOURQUE	§	
	§	
v.	§	C.A. NO. C-06-460
	§	
NATHANIEL QUARTERMAN	§	

**ORDER DENYING PETITIONER'S  
MOTION FOR AN EVIDENTIARY HEARING**

Petitioner is a state inmate currently incarcerated at the McConnell Unit in Beeville, Texas who has filed a habeas petition pursuant to 28 U.S.C. § 2254.

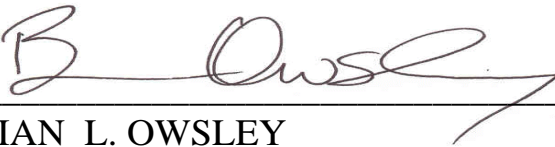
(D.E. 1). Pending is petitioner's motion for an evidentiary hearing. (D.E. 3).

Rule 8(a) of the Rules Governing Section 2254 Cases states that "[i]f the petition is not dismissed, the judge must review the answer, any transcripts and records of state-court proceedings, and any materials submitted under Rule 7 to determine whether an evidentiary hearing is warranted." Rule 8(c) further requires that "[t]he judge must conduct the hearing as soon as practicable after giving the attorneys adequate time to investigate and prepare." The Fifth Circuit has explained that "[a] hearing in a habeas proceeding is required only when, *inter alia*, the record reveals a genuine factual dispute." Tague v. Puckett, 874 F.2d 1013, 1015 (5th Cir. 1989); see also Murphy v. Johnson, 205 F.3d 809, 815 (5th Cir. 2000) (discussing basis for evidentiary hearing). At this stage, an evidentiary

hearing is premature.

Accordingly, petitioner's motion for an evidentiary hearing, (D.E. 3), is hereby DENIED without prejudice.

ORDERED this 18th day of October 2006.



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BRIAN L. OWSLEY  
UNITED STATES MAGISTRATE JUDGE